

**United States Department of the Interior
Bureau of Land Management**

**Finding of No Significant Impact
DOI-BLM-UT-9100-2013-0001-EA**

**Utah Recreational Land Exchange
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BLM

FINDING OF NO SIGNIFICANT IMPACT
Environmental Assessment
DOI-BLM-UT-9100-2013-0001-EA

Utah Recreational Land Exchange

INTRODUCTION

The Utah Recreational Land Exchange Act of 2009, Public Law 111-53 (URLEA), directed the exchange of lands in Uintah, Grand, and San Juan Counties, Utah, between the Secretary of the Interior, acting through the Bureau of Land Management (BLM) and the State of Utah, School and Institutional Trust Lands Administration (the State). The primary purpose of the URLEA, as stated in House Report 111-179, is to place valuable conservation and recreation lands into public ownership while also benefitting public school funding in Utah, and to continue the process of consolidating State and Federal ownership patterns in Utah.

Section 3 of the URLEA provides that the exchange shall be subject to existing rights and, except as otherwise provided by the URLEA, subject to Section 206 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1716) and other applicable laws. In accordance with Section 3 of the URLEA, the BLM completed an environmental assessment (EA) (DOI-BLM-UT-9100-2013-0001-EA) to analyze the exchange of lands or interest in lands identified in the URLEA and to assist the BLM authorized officer in determining which lands to eliminate from the exchange in order to achieve an equal value exchange as directed by the URLEA.

This Finding of No Significant Impact (FONSI) includes the EA as an attachment.

The URLEA identified the exchange lands by reference to the “Grand County Map” and the “Uintah County Map”. The maps are in Appendix A to the EA. The State and the BLM utilized the legislative maps to prepare the descriptions and calculate acreages for the exchange parcels, resulting in the initial identification of approximately 35,608 acres of Federal land (Parcels 1-34) and 45,826 acres of non-Federal land (Parcels 100-198). The BLM used the information derived from these maps to prepare the Notice of Exchange, published in August/September 2011, and in preparation of the EA.

Throughout the processing of the exchange, various legal and administrative processing requirements resulted in modification of some of the original parcel descriptions and acreages, and elimination of some lands from the exchange. The parties modified the exchange, as directed in the URLEA, published in the Notice of Exchange, and outlined in EA, as follows:

- 1) **Land Surveys:** The BLM modified the acreages and parcel descriptions of Federal parcels 8, 9, 16, and 25, and non-Federal parcel 117 and 185 slightly as a result of surveys completed to clearly define the parcel descriptions and boundaries, and to make the Federal parcel descriptions conform to the public land survey system.
- 2) **Title Review and Acceptance:** The URLEA requires title to the Federal and non-Federal land to be in an acceptable format. The State and the BLM reviewed the title

evidence and encumbrances, and completed inspections of the exchange parcels to confirm whether title to the lands is in acceptable condition. This process resulted in the following modifications to ten of the exchange parcels as noted below:

Parcel	Modification
107	Parcel eliminated from exchange due to environmental issues.
168/169	Review of title documents resulted in correction of parcel acreages.
162/163	Identification of a building on parcel 162 resulted in the elimination of 2.5 acres from this parcel. The parties added the underlying 2.5 acres of mineral estate to parcel 163M.
184-186, 189, 190	The parties reconfigured the parcels to avoid conflict with an overlapping development lease, resulting in revised legal descriptions and acreages.

- 3) **Value Equalization:** URLEA Sec. 3(i) and 43 CFR 2200.0-6(c) require that the exchange be of equal value. Completion of appraisal reports for the exchange parcels in July 2013 revealed a difference in value of \$10,246,000, making it necessary to eliminate 36 parcels of non-Federal land totaling 20,272.76 acres to equalize the value difference. The non-Federal parcels eliminated from the exchange for this purpose include 100, 101, 103-106, 108-114M, 120, 122-126, 129, 131, 132, 138, 139, 141, 145-147, 154, 155, 157-159, 176, 182 and 194. The parties also eliminated thirteen appurtenant water rights associated with parcels 100, 101, 103-107, 110.

The BLM and the State agreed to the above-noted modifications, as documented in Amendment 2 to the Exchange Agreement dated September 17, 2013. The parties anticipated elimination of acreage from the exchange and addressed it in both the Exchange Agreement and the EA; however, it was unknown at the time whether they would eliminate Federal or non-Federal lands from the exchange.

FINDING OF NO SIGNIFICANT IMPACT

Based upon a review of the attached EA and the supporting documents, I have determined that the project is not a major federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27 and thus do not require completion of an environmental impact statement.

In determining that the project is not a major Federal action and will not significantly affect the quality of the human environment, I considered the analysis of the proposed action included in the EA, as well as the above-mentioned modifications. I have determined that the analysis conclusions in the EA are still appropriate given the modifications and that we will still meet the overall objectives of the exchange, as directed by the URLEA. As mentioned, the URLEA directs and the EA recognizes that the exchange lands must be equal in value.

I base this finding on the context and intensity of the project as described below:

Context: The URLEA would exchange approximately 35,515 acres of Federal lands managed by the Bureau of Land Management for 25,034 acres of land owned by the State of Utah, School and Institutional Trust Lands Administration (SITLA).

Intensity: The following discussion centers around the Ten Significance Criteria described in 40 CFR 1508.27 and incorporated into resources and issues considered (includes supplemental authorities Appendix 1 H-1790-1) and supplemental Instruction Memorandum, Acts, regulations and Executive Orders.

I considered the following in evaluating intensity for this proposal:

1. Impacts may be both beneficial and adverse.

The proposed action would impact resources as described in the EA. The United States would acquire valuable recreational lands, including those in Wilderness Study Areas, Special Recreation Management Areas, Natural Areas and Areas of Critical Environmental Concern. In addition, the United States would gain areas of high visual quality, lands within suitable Wild and Scenic River segments, and desert bighorn sheep habitat. The United States would relinquish acreage with high mineral value, although economic benefits from those lands would accrue to the State of Utah as well as to Grand and Uintah counties. The BLM would also relinquish habitat for Greater Sage-Grouse, a BLM and Utah sensitive species warranted but precluded from listing under the Endangered Species Act (ESA), and Graham's beardtongue, a species proposed for listing as Threatened under the ESA.

None of the environmental effects associated with the URLEA, including impacts to the Greater Sage-Grouse or Graham's beardtongue are significant for reasons that we discuss under question number nine below.

2. The degree to which the selected alternative will affect public health or safety.

The exchange would transfer land ownership between United States and the State of Utah. Phase I environmental site assessments (ESAs) were completed for all of the Federal and non-Federal parcels in August 2013. The reports identified no conditions indicative of releases of hazardous substances or petroleum wastes on any of the parcels. Therefore, there would be no effects on public health or safety.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas.

The United States will not relinquish any lands within Wilderness Study Area boundaries, suitable Wild and Scenic River corridors or Areas of Critical Environmental Concern. The non-Federal lands include a net increase in wetlands, an increase in lands in Wilderness Study Area boundaries, and an increase in lands in suitable Wild and Scenic River corridors. There would also be an increase in lands within Areas of Critical Environmental Concern.

Three small Federal parcels are near or within Dinosaur National Monument. The BLM worked closely with the National Park Service regarding these parcels.

The BLM concluded that the exchange of lands would result in no adverse effects to cultural resources based on the fact that under State law (Utah Code 9-8-404), the State must afford historic properties the same level of protection as would the BLM under Federal law. The State Historic Preservation Office (SHPO) concurred with the BLM's no adverse effect determination by letter dated December 3, 2012.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

Nothing in this exchange is scientifically controversial. The exchange has wide-spread public support; the Law was crafted through public input. It passed both Houses of Congress. The President signed the law in 2009.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

The action is not unique or unusual. The proposed action would exchange land ownership between a Federal and a State agency. There are no predicted highly uncertain effects on the human environment and none involving unique or unknown risks.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

The selected alternative neither establishes a precedent for future BLM actions nor represents a decision in principle about future considerations (beyond those actions described in the EA.)

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts – which include connected actions regardless of land ownership.

The interdisciplinary teams in both Vernal and Moab evaluated the possible actions in context of past, present and reasonably foreseeable actions and predicted no significant cumulative effects. Chapter 4 of the EA includes a complete disclosure of the effects of the project, including cumulative effects.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

The action will not adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places, nor will it cause loss or destruction of significant scientific, cultural, or historical resources. The BLM completed consultation with the State Historic Preservation Officer (SHPO) in accordance with Section 106 of the National Historic Preservation Act. The BLM concluded that the exchange of lands would result in no adverse effects to cultural resources based on the fact that under State law (Utah Code 9-8-404), the State must afford historic properties the same level of protection, as would the BLM under Federal

law. The State Historic Preservation Office (SHPO) concurred with the BLM's no adverse effect determination by letter dated December 3, 2012.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, or the degree to which the action may adversely affect: 1) a proposed to be listed endangered or threatened species or its habitat, or 2) a species on BLM's sensitive species list.

The exchange would convey endangered and threatened species habitat to the Federal government. Specifically, the BLM would acquire the following threatened or endangered species habitat: 15,363 acres of potential Mexican spotted owl habitat, 5,577 acres of potential Southwestern willow flycatcher habitat, and 3,963 acres of Colorado Basin Fish (Colorado pike minnow, humpback chub, razorback sucker, and boney-tailed chub) habitat. While the amount of habitat acquired is slightly less than described in the EA (due to removal of some non-Federal parcels), the exchange would result in a net benefit for these species. The BLM will manage acquired lands for conservation purposes. Legislation (provisions included in the URLEA) and administration (decisions included Moab Resource Management Plan), prohibit or restrict many land uses that could affect the above-mentioned species.

The BLM would relinquish 7,670 acres of greater sage-grouse habitat to the State of Utah. As previously mentioned, and as discussed in the EA, greater sage-grouse are a BLM sensitive species. In March of 2010 the USFWS concluded that greater sage-grouse was "warranted but precluded" for listing as a threatened or endangered species. Based on the USFWS finding, the BLM and Forest Service are preparing an Environmental Impact Statement (EIS) and plan amendments focused on identifying specific conservation measures that would protect greater sage-grouse. Until the EIS and plan amendments are completed, the BLM has developed interim conservation measures to apply to ongoing and proposed actions. The BLM initiated the land exchange prior to the issuance date of the IM 2012-043. The exchange is exempt from the policies and procedures in the IM..

As part of the URLEA, the BLM proposes to transfer parcels and mineral rights to the State in mapped occupied sage-grouse habitat (parcels 3, 4, 9, 10, 11, 16, 20, 21, 22, 23, and 25). The parcels proposed to go to the State are in the Book Cliffs (6,854 acres), East Bench (198 acres), and Blue Mountain (725 acres) areas.

According to the EA, the Book Cliffs and East Bench sage-grouse populations have declined substantially and estimated to support less than 50 birds. In the Book Cliffs, there are no longer any known active greater-sage-grouse leks. Based on existing development (oil and gas) and population size neither the Book Cliffs nor the East Bench area were identified as a Priority Areas for Conservation (PACs) in the USFWS recently published Conservation Objectives Team Report (COT). PACs are key areas that states identified as crucial to ensure adequate representation, redundancy, and resilience for conservation of its associated population or populations.

In the Blue Mountain area, the United States will transfer two parcels (725 acres, parcels 3 and 4) to the State. The Blue Mountain has a strong population of more than 5 leks

with an estimated range between 100-450 birds. According to the EA, parcel 3 is near the western-most portion of the occupied habitat adjacent to the Green River and is marginal wintering and brood-rearing habitat. Parcel 4 (80-acres) is within 4 miles of more than one lek but is currently a developed gravel pit surrounded by marginal habitat.

Under the URLEA, the BLM proposed to acquire parcels (1,738 acres) that overlap with the occupied sage-grouse habitat in the Diamond Mountain (1,096 ac) and Blue Mountain (641 ac) population areas (parcels 100, 105, 106, 107, and 108). Within the EA, the BLM determined that acquisition of these parcels, which include excellent to moderate sage-grouse habitat would have a net benefit on greater sage-grouse populations in Utah. However, the parties eliminated all non-Federal parcels that included greater sage-grouse habitat from the exchange as part of the equalization process.

Despite the fact that there will no longer be a net benefit to greater sage-grouse as result of the URLEA, implementation of the exchange as modified would not have significant impacts on greater sage-grouse for the following reasons:

- 1) The Federal lands support a small local sage-grouse population that has substantially declined in recent years (7,590 acres). The State expects the population to decline further with more development expected on surrounding State-owned properties.
- 2) The sage-grouse habitat the United States will transfer to the State constitutes less than ¼ of 1 percent of the total greater-sage-grouse habitat managed by the BLM and Forest Service in the State of Utah. As such, loss of this habitat will have no impact on the BLM's ability to manage lands for conservation of greater sage-grouse in Utah.
- 3) This land exchange is exempt from the policies and procedures in IM 2012-043. Therefore, authorization of this action is wholly consistent with current policies related greater-sage-grouse.

In addition to a loss of greater-sage grouse habitat, under the URLEA the United States will transfer approximately 1,780 acres of proposed critical habitat for the Graham's beardtongue to the State. The USFWS proposed listing Graham's beardtongue as a Threatened species on Tuesday August 6, 2013, after the public comment period for the EA. Within the Federal Register Notice proposed listing, the USFWS specifically noted, "several of the parcels that the United States will transfer to SITLA include 346 known individual Graham's beardtongue plants". Several parcels identified for exchange overlap proposed Graham's beardtongue critical habitat including parcels 5 (166 acres), 6 (176 acres), 9 (951 acres) and 10 (485 acres).

In response to the proposed listing, the BLMs updated the EA to including information regarding the Graham's beardtongue's changed status. Changes in status did not necessarily alter the BLM's impact analysis or its conclusions. Although the ESA does not protect endangered plants located on non-Federal lands, SITLA is participating in a multi-agency effort to develop a conservation plan for the Graham's beardtongue and expects to provide for certain protections and/or mitigation for plants located on non-Federal land.

Based on information included in the EA I have determined that implementation of the exchange as modified would not have significant impacts on Graham's beardtongue for the following reasons:

- 1) If the exchange, as modified occurs, the United States will transfer approximately 1 percent of the known plants to the State of Utah. As such, sufficient lands containing Graham's beardtongue habitat will remain in Federal ownership for the BLM to consider appropriate conservation measures.
- 2) Multi-agency efforts to create a conservation plan for the Graham's beardtongue are ongoing to provide for protection and/or mitigation with respect to non-Federal lands.

10. Whether the action threatens a violation of a Federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment, where non-Federal requirements are consistent with Federal requirements.

The exchange does not violate any known Federal, state, local or tribal law or requirement imposed for the protection of the environment. The BLM provided State, local, and tribal interests the opportunity to participate in the environmental analysis process and sent letters to seven Native American tribes concerning the proposed action. The project is consistent with applicable land management plans, policies, and programs. In addition, the project actualizes the direction and intent of Public Law 111-53.

/s/ Juan Palma
Juan Palma, Authorized Officer

02/07/2014
Date